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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Application of :
Takayoshi SUZUKI et al. :
Serial No. 09/273,286 : Group Art Unit - 3737
Filed: March 19, 1999 :
For: OPHTHALMIC APPARATUS : Docket No. K036-3629
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MS PETITION
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR §1.181(a) FOR WITHDRAWAL
OF NOTICE OF ABANDONMENT

S I R:

Applicants respectfully petition pursuant to 37 CFR §1.181(a) for withdrawal of a Notice of Abandonment mailed November 10, 1999 in the above-identified application and for re-mailing of the Notice of Allowance.

Statement of Facts

Since the filing of above-identified application on March 19, 1999, the only communication the attorneys of record received from the PTO is the Filing Receipt. In

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TECHNICAL STAFF

response to a status inquiry from applicants' Japanese patent attorney, a telephone call was made on August 31, 2005 to Roy Envall at the Inventor's Assistance Center who advised that a Notice of Abandonment was mailed on November 10, 1999 indicating that the application has become abandoned because of applicants' failure to timely pay the issue fee due on October 6, 1999 (based on a Notice of Allowance mailed three months earlier on July 6, 1999). Prior to the telephone conversation with Mr. Envall, the attorneys of record were not aware that the application had been allowed since they never received a Notice of Allowance, and the attorneys of record were unaware that the application had become abandoned because they did not receive any communication from the PTO concerning this application other than the Filing Receipt.

During the month of July 2005, the attorneys of record moved their offices from 50 Broadway, New York, NY to 17 Battery Place, New York, NY. Due to numerous disruptions occasioned by the move including packing and unpacking all the firm's records, documents and files, it was not until November 30, 2005 that this application and the 1999 Master Docket Book were located and given to the undersigned, following which this petition was promptly filed.

Had the Notice of Allowance mailed July 6, 1999 been received by the attorneys of record, an entry would have been made in the Master Docket Book for payment of the issue fee on October 6, 1999 (three months from the mailing date of the Notice of Allowance). An entry also would have been made on the front face of the application file jacket of the attorneys of record indicating the date of allowance. Annexed hereto are true and correct copies of the complete page of the Master Docket Book for October 6, 1999 and the front face of the file jacket of the application file maintained by the attorneys of record. As can be seen, neither the docket records nor the application file contain any indication of receipt of the Notice of Allowance mailed by the PTO on July 6, 1999. Had the Notice of Allowance been received, it would have definitely been entered in the Master Docket Book under the date of October 6, 1999 and it would also have been entered on the front face of the file jacket. The undersigned attorney hereby states with certainty that the Notice of Allowance mailed by the PTO on July 6, 1999 was not received by the attorneys of record.

As the attorneys of record have never received the Notice of Allowance, the issue fee cannot be paid concurrently with this petition.

Petition Fee

No petition fee is believed required in connection with this petition. However, should it be determined that a petition fee is due, authorization is hereby given to charge such fee to our Deposit Account No. 01-0268.

Relief Sought

In view of the foregoing, and in accordance with the practice set forth in MPEP §711.03(c)IA, applicants respectfully request that the Notice of Abandonment be withdrawn and vacated and that the PTO re-mail the Notice of Allowance together with any attachments.

Respectfully submitted,

ADAMS & WILKS
Attorneys for Applicants

By: 

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MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: MS Petition, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Donna Riccardulli

Name


Signature

December 5, 2005

Date



~~Y. Ba Mtd 789 11/9 Final (Seiko)~~
~~ugmova~~

~~Decl. filed Sept. 29, 1999 m.c.~~
~~351,504 Declaration (Seiko)~~
~~Yamada~~

~~Decl. filed Sept. 29, 1999 m.c.~~
~~351,506 Declaration (Seiko)~~
~~Suzuki~~

~~Decl. filed Sept. 29, 1999 m.c.~~
~~351,503 Declaration (Seiko)~~
~~Hosoda~~

~~Paid Sept. 30, 1999 m.c.~~
~~844,323 Request for Assignment,~~
~~3 Priority Documents~~
~~& Acknowledgment (Seiko)~~
~~27. 9/27~~
~~Shimizu~~

~~Decl. filed Sept. 29, 1999 m.c.~~
~~351,505 Declaration (Seiko)~~
~~Okada~~

~~288 filed Oct. 5, 1999 m.c.~~
~~288 (Seiko) Trans 9/22~~
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TECHNICAL UNIT 112-227

SERIAL NO

OTHER FOREIGN

ASSIGNMENT RECORDED _____ REEL _____ FRAME _____

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ALLOWED _____ FINAL FEE PAID _____

PATENT NO. _____ DATE _____

Japanese Patent Appln. No. 71615/98
 filed March 26, 1998

Filed March 30, 1998

Priority document Filed: March 19, 1999